

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
)
PUBLIC UTILITIES COMMISSION)
)
Instituting a Proceeding to)
Investigate the Calculation of)
Schedule Q Payment Rates)
_____)

Docket No. 2008-0069

STIPULATED PROCEDURAL ORDER

and

CERTIFICATE OF SERVICE

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DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

PUBLIC UTILITIES
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Hawaiian Electric Company, Inc. ("HECO"), Hawaii Electric Light Company, Inc. ("HELCO"), Maui Electric Company, Limited ("MECO"), Kauai Island Utility Cooperative ("KIUC"), and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (the "Consumer Advocate") hereby stipulate that the attached Stipulated Procedural Order is mutually acceptable to each respective party.

Dated: Honolulu, Hawaii, July 31, 2008.

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Division of Consumer Advocacy
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STIPULATED PROCEDURAL ORDER

By Order No. 24157, filed on April 18, 2008, the Commission initiated this proceeding to examine the methodology for calculating Schedule Q electricity payment rates in the State of Hawaii. As described in Order No. 24157, the issue of Schedule Q payment rates had been raised in another Commission proceeding, Docket No. 2007-0220, in which Hawaii Electric Light Company, Inc. ("HELCO") sought Commission approval to include in its Energy Cost Adjustment Clause ("ECAC") the costs of purchased energy under a Schedule Q purchased power contract (the "Contract") with the County of Hawaii Department of Water Supply.

By letter dated January 28, 2008, the Commission requested that the parties to Docket No. 2007-0220 brief the issue of whether the Contract payment rates (which are based on Schedule Q) comply with Act 162, Session Laws of Hawaii 2006 ("Act 162"). Act 162, which took effect on June 2, 2006, amended HRS § 269-27.2 (c) by adding a third paragraph, such that subsection (c) now reads as follows:

The rate payable by the public utility to the producer for the nonfossil fuel generated electricity supplied to the public utility shall be as agreed between the public utility and the supplier and as approved by the public utilities commission; provided that in the event the public utility and the

supplier fail to reach an agreement for a rate, the rate shall be as prescribed by the public utilities commission according to the powers and procedures provided in this chapter.

In the exercise of its authority to determine the just and reasonable rate for the nonfossil fuel generated electricity supplied to the public utility by the producer, the commission shall establish that the rate for purchase of electricity by a public utility shall not be more than one hundred per cent of the cost avoided by the utility when the utility purchases the electrical energy rather than producing the electrical energy.

The commission's determination of the just and reasonable rate shall be accomplished by establishing a methodology that removes or significantly reduces any linkage between the price of fossil fuels and the rate for the nonfossil fuel generated electricity to potentially enable utility customers to share in the benefits of fuel cost savings resulting from the use of nonfossil fuel generated electricity. As the commission deems appropriate, the just and reasonable rate for nonfossil fuel generated electricity supplied to the public utility by the producer may include mechanisms for reasonable and appropriate incremental adjustments, such as adjustments linked to consumer price indices for inflation or other acceptable adjustment mechanisms.

HRS § 269-27.2 (c) (emphasis added)

By letter dated and filed on March 7, 2008, HELCO responded to the Commission's January 28, 2008 letter stating that "the provision added by Act 162 concerning establishing a methodology to remove or reduce any linkages between the price of fossil fuels and the rate for nonfossil fuel generated electricity only comes into play where the utility and the supplier fail to reach agreement on a rate for purchase."¹ HELCO further stated that "[i]n recognition of the implications of the added language, the HECO Companies [i.e., HELCO, Hawaiian Electric Company, Inc. ("HECO") and Maui Electric Company, Ltd. ("MECO")] are willing to propose a new methodology to calculate Schedule Q payment rates which will result in fixed payment rates over the term of the Schedule Q contract (which the HECO Companies are proposing to extend

¹ Letter dated and filed March 7, 2008, in Docket No. 2007-0220, from HELCO to the Commission, at 2.

to 5 years)” but that the “proposed new methodologies to compute Schedule Q payment rates should be examined in detail in a new Commission proceeding instead of this docket.”²

The Commission, in Decision and Order No. 24099, filed in Docket No. 2007-0220 on March 20, 2008, agreed with HELCO’s statement regarding the need for a new proceeding, finding it appropriate and necessary to institute this separate proceeding to fully address the issues related to the methodology for calculating Schedule Q payment rates in Hawaii.

The Commission named HECO, HELCO, MECO (collectively, the “HECO Companies”), Kauai Island Utility Cooperative (“KIUC”), and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (the “Consumer Advocate”) as parties to this docket (the HECO Companies, KIUC and the Consumer Advocate collectively referred to as the “Parties”).

On May 2, 2008, Zero Emissions Leasing LLC (“Zero Emissions”) filed a Motion for Intervention in the subject proceeding.

On May 12, 2008, the HECO Companies timely submitted a Memorandum in Opposition to Zero Emissions’ Motion for Intervention.

On May 16, 2008, Zero Emissions submitted a Reply Memorandum in Support of its Motion for Intervention.

Order No. 24157 stated that the Parties shall develop a stipulated prehearing (or procedural) order to govern the matters of this investigation for Commission review and approval within forty-five (45) days of the date of Order No. 24157. By letter dated June 2, 2008, the HECO Companies, on behalf of the Parties, requested an extension to July 31, 2008, to submit a stipulated prehearing or procedural order. By letter dated June 9, 2008, the

² Id.

Commission granted the request for extension to submit a stipulated prehearing or procedural order.

By Order filed on June 26, 2008, the Commission denied Zero Emissions' Motion for Intervention.

The Parties agree that the following provisions of this Stipulated Procedural Order are mutually acceptable to each.

ACCORDINGLY, IT IS ORDERED that the following Statement of the Issues, Schedule of Proceedings, and procedures shall be utilized in this docket.

I. STATEMENT OF THE ISSUES

The issues in this docket are:

1. What is the appropriate methodology or methodologies for calculating Schedule Q payment rates given the applicable law, including HRS § 269-27.2(c), the Public Utilities Regulatory Policies Act of 1978, as amended, and Hawaii Administrative Rules Chapter 6-74;
2. Whether the methodologies for calculating Schedule Q payment rates proposed by HELCO are reasonable and comply with all applicable laws;
3. Whether a methodology other than the methodologies proposed by HELCO for calculating Schedule Q payment rates should be adopted by the Commission, and, if so, is the methodology reasonable.

II. SCHEDULE OF PROCEEDINGS

Technical Meeting to discuss docket issues	September 9, 2008
Informal Submission of Preliminary Statements of Positions (not filed in docket) ³	October 24, 2008
Technical Meeting to discuss Informal Preliminary Statements of Positions	November 7, 2008
Simultaneous Statements of Positions	December 8, 2008
Simultaneous Information Requests to the Parties on their Statements of Positions	January 12, 2009
Simultaneous Responses to Information Requests	February 2, 2009
Simultaneous Responses/Replies to Statements of Positions	March 2, 2009

If there are substantial disagreements following the filing of the Simultaneous Responses/Replies to Statements of Positions, and the Parties cannot resolve the differences by stipulation and the Parties do not waive the right to a hearing, the Parties shall propose a hearing schedule (including the filing of simultaneous post-hearing briefs) for Commission approval. If the Parties determine that Simultaneous Responses/Replies to Statements of Positions are unnecessary, the Parties will notify the Commission that the proceeding is ready for decision-making.

Notwithstanding the above, the Parties shall have the right to amend the Stipulated Regulatory Schedule as may be agreed in writing and approved by the Commission from time to time. However, the intent of the Parties in agreeing to a schedule at this time is to promote the efficient and cost-effective allocation of resources. Therefore any changes to the schedule

³ The purpose of not filing the informal Preliminary Statements of Positions above is to allow for the Parties to share preliminary positions outside of a public forum to allow for the Parties to continue to analyze and gather additional information needed to finalize their positions in their Statements of Position without concern or undue prejudice in the event their positions in their Statements of Position differ from the positions set forth in their Preliminary Statements of Positions.

should be proposed only when there is an urgency or substantial competing need that cannot be reasonably accommodated without a change.

III. MISCELLANEOUS MATTERS TO FACILITATE AND EXPEDITE THE ORDERLY CONDUCT OF THESE PROCEEDINGS

A. Requests for Information

A party to this proceeding may submit information requests to another party within the time schedule specified in this Stipulated Procedural Order. To the extent practical, the Parties will cooperate by exchanging information requests and responses as they become available, and by resolving questions regarding information requests and responses informally to attempt to work out problems with respect to understanding the scope or meaning of information requests, or with respect to the availability of information. If a party is unable to provide the information requested within the prescribed time period, it should so indicate to the inquiring party as soon as possible. The parties shall then endeavor to agree upon a later date for submission of the requested information. If the parties are unable to agree, the responding party, as applicable, may seek approval for the late submission from the Commission upon a showing of good cause. It is then within the Commission's discretion to approve or disapprove such late filings and take any additional action that may be appropriate, such as extending the date for the party to respond.

In lieu of responses to information requests that would require the reproduction of voluminous documents or materials (e.g., documents over 50 pages), the documents or materials may be made available for reasonable inspection and copying at a mutually agreeable designated location and time. In the event such information is available on computer diskette or other readily usable electronic medium, the party responding to the information request shall make the diskette or such electronic medium available to the other parties and the Commission. Subject to

objections that may be raised and to the extent practicable, the electronic files for spreadsheets will contain all cell references and formulae intact, and will not be converted to values prior to submission.

A party shall not be required, in a response to an information request, to provide data that is/are already on file with the Commission or otherwise part of the public record, or that may be stipulated to pursuant to Part B, infra. The responding party shall, in lieu of production of a document in the public record, include in its response to the information request an identification of the document with reasonable specificity sufficient to enable the requesting party to locate and copy the document. In addition, a party shall not be required, in a response to an information request, to make computations, compute ratios, reclassify, trend, calculate, or otherwise rework data contained in its files or records.

A party may object to responding to an information request that it deems to be irrelevant, immaterial, unduly burdensome, onerous or repetitious, or where the response contains information claimed to be privileged or subject to protection (confidential information). If a party claims that information requested is confidential, and withholds production of all or a portion of such confidential information, the party shall: (1) provide information reasonably sufficient to identify the confidential information withheld from the response, without disclosing privileged or protected information; (2) state the basis for withholding the confidential information (including, but not limited to, the specific privilege applicable or protection claimed for the confidential information and the specific harm that would befall the party if the information were disclosed); and (3) state whether the party is willing to provide the confidential information to some or all representatives of the party pursuant to a protective order.

A party seeking production of documents notwithstanding a party's claim of confidentiality, may file a motion to compel production with the Commission.

The responses of each party to information requests shall adhere to a uniform system of numbering agreed upon by the Parties. For example, the first information requests submitted by the Consumer Advocate in this docket shall be referred to and designated as "CA-HECO-IR-1" and "CA-KIUC-IR-1" and the responses to these information requests shall be referred to and designated as, respectively, "Response to CA-HECO-IR-1" and "Response to CA-KIUC-IR-1".

Each response shall be provided on a separate page and shall recite the entire question asked and set forth the response and/or reference the attached responsive document, indicating the name of the respondent for each response.

B. Matters of Public Record

To reduce unnecessary reproduction of documents and to facilitate these proceedings, identified matters of public record, published scientific or economic statistical data, material and textbooks, technical or industry journals relating to utility matters, and specified parts of the record in previous Commission dockets shall be admissible in this proceeding without the necessity of reproducing each document; provided that the document to be admitted is clearly identified by reference to the place of publication, file or docket number, and the identified document is available for inspection by the Commission and the Parties, and further provided that any party has the right to explain, qualify or conduct examination with respect to the identified document. The Commission can rule on whether the identified document can be admitted into evidence when a party proffers such document for admission as evidence in this case.

From time to time, the Parties may enter into stipulations that such documents, or any portion of such documents, may be introduced into evidence in this case.

C. Copies of Filings and Information Requests

1. Filings:

Commission	Original + 8 copies
Consumer Advocate	2 copies
HECO/HELCO/MECO	2 copies
KIUC	2 copies

2. Information Requests and Responses:

Commission	Original + 8 copies
Consumer Advocate	2 copies
HECO/HELCO/MECO	2 copies
KIUC	2 copies

3. All pleadings, briefs and other documents required to be filed with the Commission shall comply with the formatting requirements prescribed pursuant to Chapter 61, Subchapter 2, Section 6-61-16 of the Commission's Rules of Practice and Procedure and shall be filed at the office of the Commission in Honolulu within the time limit prescribed pursuant to Chapter 61, Subchapter 2, Section 6-61-15 of the Commission's Rules of Practice and Procedure.

4. Copies of all filings, information requests and information request responses should be sent to the Commission and Consumer Advocate by hand delivery or United States mail (first class, postage prepaid). The Parties stipulate and agree that service of documents between the other parties, other than documents designated as confidential pursuant to any protective order adopted in this proceeding, shall be served electronically via e-mail in a portable document format ("pdf") by 5:00 p.m. on the day due. The Parties agree to use Word 97, Word 2000 or Word 2008 as the standard programming format for filings in this case and will submit their information requests to the other parties in this format. The Parties also agree to submit any

spreadsheets (e.g., used as workpapers or exhibits or documentation submitted in response to information requests) in Microsoft Excel format. However, if workpapers, documentation, or exhibits attached to any filing are not readily available in an electronic format, a party shall not be required to convert such workpapers, documentation, or exhibits into an electronic format. Also, existing documents produced in response to requests need not be converted to Word 97/Word 2000/Word 2008 as long as the applicable format is identified.

D. Communications

Chapter 61, Subchapter 3, Section 6-61-29 of the Commission's Rules of Practice and Procedure concerning ex parte communications is applicable to any communications between a party and the Commission. However, the Parties may communicate with Commission counsel on matters of practice and procedure through their own counsel or designated official.

Communications between the Parties should either be through counsel or through designated representatives. All pleadings, papers, and other documents filed in this proceeding shall be served on the opposing parties. All motions, supporting memoranda, and the like shall also be served on opposing counsel.

E. General


These procedures are consistent with the orderly conduct of this docket. This Stipulated Procedural Order shall control the subsequent course of these proceedings, unless modified by the Parties in writing and approved by the Commission, or upon the Commission's own motion.

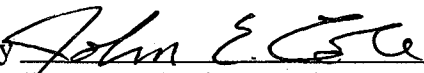
This Stipulated Procedural Order may be executed by the Parties in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument. The Parties may execute this Stipulated Procedural Order by facsimile for

initial submission to the Commission to be followed by the filing of originals of said facsimile pages.

APPROVED AND SO ORDERED THIS, AUG 13 2008
at Honolulu, Hawaii.


PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

By 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Kaiulani Kidani Shinsato
Commission Counsel

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Stipulated Procedural Order upon the following parties, by causing a copy hereof to be mailed, postage prepaid and properly addressed, or electronically transmitted to each such party.

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